

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW MEXICO**

**EDUARDO ORTEGA,**

Movant/Defendant,

vs.

**CIVIL NO. 06-0164 JP/DJS**  
Criminal No. 03-766 JP

**UNITED STATES OF AMERICA,**

Respondent/Plaintiff.

**ORDER ADOPTING MAGISTRATE JUDGE'S PROPOSED FINDINGS AND  
RECOMMENDED DISPOSITION (Doc. No. 10), AND DENYING UNITED STATES'  
MOTION TO STRIKE PLAINTIFF'S REPLY BRIEF AS MOOT (Doc. No. 9)**

On March 1, 2006 Plaintiff Eduardo Ortega filed his Motion Pursuant to 28 U.S.C. § 2255 to Vacate, Set Aside or Correct Sentence By a Person In Federal Custody (the "Motion") (Doc. No. 1). On April 6, 2006, Defendant United States of America filed its Response (Doc. No. 7). On June 26, 2006, Plaintiff filed a Reply to United States' Response (Doc. No. 8). The United States filed a Motion to Strike Plaintiff's Reply as untimely (the "Motion to Strike") (Doc. No. 9). On July 21, 2008 Magistrate Judge Don J. Svet submitted the Magistrate Judge's Proposed Findings And Recommended Disposition (Doc. No. 10). On July 30, 2008, Plaintiff filed his Petitioner's Objections To The Magistrate Judge's Proposed Findings and Recommended Disposition ("Plaintiff's Objections") (Doc. No. 11) to which the United States filed a Response on August 13, 2008 (Doc. No. 12).

Having conducted a *de novo* review of the record, the Court finds that Plaintiff's Objections are without merit, that the Magistrate Judge's Proposed Findings And Recommended

Disposition should be adopted, that the United States' Motion to Strike Plaintiff's Reply should be denied as moot, and that the case should be dismissed with prejudice.

IT IS THEREFORE ORDERED that the Magistrate Judge's Proposed Findings and Recommended Disposition should be adopted, the Motion to Strike is denied as moot and the case will be dismissed with prejudice by separate order.

  
UNITED STATES SENIOR DISTRICT JUDGE